

ESTTA Tracking number: **ESTTA531646**

Filing date: **04/11/2013**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

**Petition for Cancellation**

Notice is hereby given that the following party requests to cancel indicated registration.

**Petitioner Information**

Name	World Health Products f/k/a German American Technologies, LLC		
Entity	Limited Liability Company	Citizenship	Connecticut
Address	64 Sunnyside Avenue Stamford, CT 06902 UNITED STATES		

Attorney information	Matthew H. Swyers The Trademark Company 344 Maple Avenue West Vienna, VA 22180 UNITED STATES mswyers@thetrademarkcompany.com Phone:(800)-906-8626 x 100		
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**Registration Subject to Cancellation**

Registration No	4284010	Registration date	01/29/2013
Registrant	DLR Associates Inc 125F Trade Center # 9 Mooresville, NC 281175539 UNITED STATES		

**Goods/Services Subject to Cancellation**

Class 005. First Use: 2012/08/01 First Use In Commerce: 2012/08/01 All goods and services in the class are cancelled, namely: Dietary supplemental drinks
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**Grounds for Cancellation**

Priority and likelihood of confusion	Trademark Act section 2(d)
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**Mark Cited by Petitioner as Basis for Cancellation**

U.S. Application No.	77694571	Application Date	03/19/2009
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	LIQUID RELAX		

Design Mark	
Description of Mark	NONE
Goods/Services	Class 005. First use: Dietary supplements

Attachments	Petition to Cancel.pdf ( 5 pages )(98357 bytes ) 77694571#TMSN.jpeg ( 1 page )( bytes )
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### Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/Matthew H. Swyers/
Name	Matthew H. Swyers
Date	04/11/2013

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
The Trademark Trial and Appeal Board**

In the matter of U.S. Registration 4,284,010  
For the mark LIQUID RELAXATION,  
Registered on the Principal Register on January 29, 2013.

World Health Products f/k/a German American Technologies,	:	
	:	
Petitioner,	:	
	:	
vs.	:	Cancellation No. _____
	:	
DLR Associates, Inc.,	:	
	:	
Registrant.	:	

**PETITION TO CANCEL**

Petitioner, World Health Products f/k/a German American Technologies (hereinafter “Petitioner”), a Connecticut Limited Liability Company, located and doing business at 64 Sunnyside Avenue, Stamford, CT 06902, believes that it is and will continue to be damaged by the continued registration of U.S. Registration 4,284,010 for the mark LIQUID RELAXATION and, accordingly, hereby petitions this honorable tribunal to cancel the same pursuant to 15 U.S.C. § 1064 and 37 C.F.R. § 2.111(b).

**Grounds for Cancellation**

As grounds for the instant Petition to Cancel, it is alleged that the continued registration of Registrant DLR Associates, Inc.’s (hereinafter “Registrant”) mark LIQUID RELAXATION as more fully displayed in U.S. Registration No. 4,284,010 would be likely to cause confusion with Petitioners’ mark LIQUID RELAX which retains priority of use over Registrant’s mark LIQUID RELAXATION by virtue of its prior use in commerce in the United States.

**Statement of Facts**

In support of the instant Petition to Cancel, it is alleged that:

1. Petitioner is the owners of the mark LIQUID RELAX used on or in connection with dietary supplements.

2. Petitioners first used the mark LIQUID RELAX in connection with the above-identified goods in interstate commerce on or about June 18, 2003.

3. Petitioner's use of the mark LIQUID RELAX in connection with the above-identified goods has been continuous since on or about June 18, 2003.

4. Petitioner has invested significant sums of money in the promotion of the mark LIQUID RELAX and the Petitioner's goods in the United States.

5. As a result of the aforesaid, Petitioner has developed a valuable reputation and goodwill in its LIQUID RELAX mark and has achieved a following among the relevant consuming public prior to the filing, registration and/or priority date of Registrant's application to register the mark LIQUID RELAXATION identified more fully in U.S. Registration No. 4,284,010.

6. On March 19, 2009, Petitioner filed an application to register the mark LIQUID RELAX used on or in connection with dietary supplements in International Class 5. The application received Trademark Application No. 77/694,571.

7. On July 8, 2009, the mark LIQUID RELAX as more fully identified in Trademark Application No. 77/694,571 published for opposition.

8. On October 20, 2009 the Petitioner's mark LIQUID RELAX as more fully identified in Trademark Application No. 77/694,571 was issued a Notice of Allowance.

9. On May 24, 2010 the Petitioner's mark LIQUID RELAX as more fully identified in Trademark Application No. 77/694,571 was abandoned due to the Petitioner not filing its statement of use.

10. Irrespective of the abandonment of Petitioner's mark LIQUID RELAX as more fully identified in Trademark Application No. 77/694,571, the Petitioner never ceased use of the mark in commerce since June 18, 2003.

11. Based upon information and belief, Registrant is a Delaware Corporation with an address of 125F Trade Center # 9 Mooresville, NC 28117.

12. Based upon information and belief Registrant is using the mark LIQUID RELAXATION in connection with dietary supplemental drinks in International Class 5.

13. Registrant's registration identified more fully in U.S. Registration No. 4,284,010 was filed with the United States Patent and Trademark Office on March 13, 2012.

14. Upon information and belief, Registrant first used the mark LIQUID RELAXATION in connection with the goods covered by its registration in the United States on August 1, 2012.

15. As such, Petitioners' rights in the mark LIQUID RELAX have priority of use over Registrant's rights in the mark LIQUID RELAXATION, U.S. Registration No. 4,284,010, inasmuch as Petitioners commenced their use of the mark LIQUID RELAX in connection with their goods in interstate commerce prior to the filing, registration, and/or priority of use date of the Registrant's registration and use of the mark LIQUID RELAXATION.

16. Petitioners believe that consumers confronted with the Registrant's mark LIQUID RELAXATION will inevitably be confused and deceived into the mistaken belief that the Registrant's goods have their origin or are in some manner connected with the Petitioner and/or Petitioner's goods offered in connection with their LIQUID RELAX mark.

17. The continued registration of Registrant's mark confers upon Registrant rights to which it is not entitled and is inconsistent with the prior established rights of Petitioner in its mark LIQUID RELAX.

18. By reason of the foregoing, the Petitioner will be seriously damaged by the continued registration of Registrant's LIQUID RELAXATION.

WHEREFORE the Petitioner World Health Products f/k/a German American Technologies, by counsel, prays that the instant petition be granted and U.S. Registration No. 4,284,010 be cancelled.

Respectfully submitted this 11<sup>th</sup> day of April, 2013.

The Trademark Company, PLLC

/Matthew H. Swyers/

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Counsel for Petitioner

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
The Trademark Trial and Appeal Board**

In the matter of U.S. Registration 4,284,010  
For the mark LIQUID RELAXATION,  
Registered on the Principal Register on January 29, 2013.

World Health Products f/k/a German American :  
Technologies, :

Petitioner, :

vs. :

DLR Associates, Inc., :

Registrant. :

Cancellation No. \_\_\_\_\_

**Certificate of Service**

I HEREBY CERTIFY that a true and accurate copy of the foregoing Petition to Cancel was served this 11<sup>th</sup> day of April, 2013 upon the Registrant via first class mail at the address listed on the TARR database as reported this day as follows:

Christopher J. Day  
Law Office of Christopher Day  
9977 N 90TH ST STE 155  
Scottsdale, AZ 85258-4499

And a copy to:

DLR Associates Inc  
125F Trade Center # 9  
Mooresville, NC 28117

/Matthew H. Swyers/  
Matthew H. Swyers